indebted to the plaintiffs in the sum of $49,900. The plaintiffs claimed this sum from the defendant on the ground that it was an unsatisfied pre-occupation debt. The statement of accounts showed that on the 4th of January 1943, the debit and credit between the parties, in each case, was nil. The defendant contended that on the 4th of January 1943, the pre-occupation debt became liquidated and is therefore not owing to the plaintiffs.

Held, that the defendant's pre-occupation debt was partially and substantially discharged at a time when the respective currencies stood at par — Judgment for the defendant with costs.

CIVIL SUIT.

R. Ramani and *Lim Kheng Kooi* for the plaintiffs.

Ong Huck Lim and *F. G. Pooley* for the defendant.

Cur. Adv. Vult.

Abbott, J. : — The plaintiffs and the defendant are money-lenders carrying on business in Penang. They commenced having business dealings with each other in February 1939 and continued to have such business dealings until August 1945 when they came to an end. The nature of those business dealings, as disclosed in the Statement of Claim, was that they operated a current account between themselves upon the basis of loan with interest; the agreed statement of accounts shows that the defendant drew upon the account from time to time and, from time to time, he paid money into it. On the 15th of February 1942 (the day upon which the Japanese occupation of Malaya began — see the definition of "occupation period" in section 2(1) of the Debtor and Creditor (Occupation Period) Ordinance, No. 42 of 1948) the defendant was indebted to the plaintiffs in the sum of $49,900. The plaintiffs claim this sum from the defendant on the ground that it is an unsatisfied pre-occupation debt to which the provisions of section 8 of the Ordinance apply. As I have already pointed out the account continued to be operated during the occupation period; and the statement of accounts shows that on the 2nd of January 1943 the defendant was indebted in the sum of $1,550 which he paid off two days later — thus on the 4th of January 1943 the debit and credit between the parties, in each case, was nil. It is the contention of the defendant that on the 4th of January 1943 the pre-occupation debt of $49,900 became liquidated and is therefore not owing to the plaintiffs. In the view of this Court it is section 4(1), and not section 8, of the Ordinance that applies to the present case. Section 4(1) provides that "where any payment was made during the occupation period in Malayan currency or occupation currency by a debtor . . . to a creditor . . . and such payment was made in respect of a pre-occupation debt, such payment shall be a valid discharge of such pre-occupation debt to the extent of the face value of such debt". In the view of this Court the amounts paid into the account by the defendant up to and including the 4th of January 1943 were paid towards the reduction and eventual elimination of a pre-occupation debt of $49,900 and any dealings which the parties had between themselves after that date are not material to the present issue. By reference to the Schedule to the Ordinance it will be seen that, from February to December 1942, the value of Malayan currency *viz-a-viz* occupation currency was at par; in January 1943 occupation currency faced Malayan currency at the ratio of $105 to $100 respectively.

I hold that the defendant's pre-occupation debt of $49,900 was partially and substantially discharged at a time when the respective currencies stood at par and that the balance (representing four days of January 1943), though not discharged, is of so trivial an amount that the doctrine of *de minimis non curat lex* must, and does, apply in respect of it. I give judgment for the defendant with costs.

Judgment for the defendant.

EE CHOON BOK AND ANOR. v. PUBLIC PROSECUTOR.

[App. Crim. Juris. (Abbott, J.) September 3, 1951]

[Malacca — Criminal Appeal No. 21 of 1951]

Summary Trial — Whether it is necessary for the Court to give reasons for finding that evidence is true or untrue.

This was an appeal against the conviction of the appellants for an offence under section 114 (1)(f) of the Customs Enactment. It was argued on appeal that the learned President should have specified in his judgment the reasons for finding that the evidence of the appellants was untrue and that as he had failed to do so the conviction must be set aside.

Held, that in cases where the credibility of a witness is concerned it is sufficient for it to be recorded in the Grounds of Decision that the witness was believed or disbelieved.

Cases referred to :—

(1) *R. v. Carr Braint* (1943) K.B. 607.

(2) *Murugiah v. Public Prosecutor* (1941) M.L.J. 17.

(3) *Rex v. Loh Toh Cheng* (1941) M.L.J. 1.

APPEAL from Sessions Court, Malacca.

D. G. Rawson for the appellants.

D. C. Jackson (Federal Counsel) for the respondent.

Cur. Adv. Vult.

Abbott, J. : — The appellants were charged in the Sessions Court in Malacca of an offence against section 114(1)(f) of the Customs Enactment (F.M.S. No. 5 of 1936) in that they were knowingly concerned in conveying dutiable goods, being forty-six packages of tobacco, with intent to defraud the Government of the customs duties thereon. After a very long and careful trial in the lower court the appellants, who denied the charge, were convicted and sentenced to fines or to imprisonment in default of the payment of the fines. Each appellant has appealed against his conviction. For the purposes of this judgment it is not necessary to set out in detail all the matters given in evidence in the lower court; it is sufficient to say that the first appellant admitted ownership of the tobacco and that both appellants were apprehended, while actually conveying the tobacco in a hired lorry, by Customs Officers in the very early hours of the morning. At the close of the prosecution case there was ample evidence to establish a *prima facie* case against the appellants and thus the onus of proving that customs duty on the tobacco had been paid was upon the defence. The first appellant swore that he bought the tobacco, in a personal transaction, from one Koh Puay Hong who handed him personally a receipt of the Customs Department purporting to show that duty had been paid on the tobacco. Koh Puay Hong was called as a witness by the defence; he swore that he never had any such personal transaction with the appellant. The learned President of the Sessions Court believed the evidence of Koh Puay Hong and, for that reason, it could not therefore be held that the defence had discharged that reduced measure of onus, as regards the probability of truth, that would bring them within the protection of *R. v. Carr Braint*[1]. The learned President found as a fact that the receipt did not relate to the tobacco and this Court sees no reason to differ from that finding.

One not unimportant matter has been raised in this appeal — that the learned President did not specify in his judgment any reasons for finding that the evidence of the appellants was untrue. Because the learned President did not set out the grounds of his disbelief this Court has been asked to quash the conviction and in support of the proposition two cases have been cited, namely, *Murugiah v. Public Prosecutor*[2] and *Rex v. Low Toh Cheng*[3]. In the former case the learned judge, in his judgment, used these words :—

> "It does not appear to me that a Magistrate complies with section 307(iii) of the Criminal Procedure Code which requires him to give the Grounds of Decision by stating 'I believe the evidence of the prosecution'.....'I disbelieve the evidence of the accused.' I think the Magistrate should state, except in the simplest of cases and they usually are not the subject of appeal, the reasons why he believed or disbelieved the evidence in question."

With great respect to the learned and very experienced judge who wrote those words I consider that, if followed, they place lower courts in a very difficult position. It is often a matter of extreme difficulty to give reasons, in final and conclusive terms, for belief or disbelief — particularly when it is one person's word against that of another. Could any of the following expressions be regarded, by one who reads them or hears them spoken, as being final and conclusive reasons? "I believe that man because he gave his evidence in what seemed to me to be a straightforward way." "I disbelieve that man because he faltered, or seemed to me to falter, when he gave his evidence." And yet there are many cases where no better reasons can be adduced. It is different when a witness under cross-examination is proved to be a liar; in such a case the material would be upon the record and it would generally be quite superfluous to refer to the detail in the Grounds of Decision. In the case of *Rex v. Low Toh Cheng*[3] the learned judge on appeal used the following words :—

> ".....a general reference to the demeanour of witnesses, without condescending to any particulars, gives rise to the suspicion that an attempt is being made to bolster up a verdict which is contrary not only to the weight of evidence but to the probabilities, and which could not be supported on a detailed examination of the evidence."

I regret that I am unable to agree with that paragraph: this Court prefers to proceed upon an assumption that subordinate courts do not seek to bolster up decisions — in other words, to resort to questionable means to ensure that their decisions are maintained upon appeal.

This Court is of the opinion that no finding of fact ought to be upset except where it is clearly shown that the finding was unreasonable. In cases where the credibility of a witness is concerned it is, I consider, sufficient for it to be recorded in the Grounds of Decision that the witness was believed or disbelieved; it could then be for an appellant to show that that such belief or disbelief, as the case may be, was unreasonable. Reasons for such belief or disbelief should be given in any case where it is considered that they may be helpful to the appeal court.

The Appeals are dismissed.

Appeals dismissed.